

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

1. Settings: The state identified two types of provider owned and controlled settings: Residential Assisted Living Facilities (RALFs) and Certified Family Homes (CFHs), as well as eight service types (Habilitative Supports, Habilitative Intervention, Adult Day Health, Community Crisis Supports, Day Habilitation, Developmental Therapy, Residential Habilitation-Supported Living, and Supported Employment). It is unclear if this is an exhaustive list of all settings within the state. Idaho provided a comprehensive list of waiver and relevant state plan services, but needs to include a list of every setting type and the corresponding waiver. Please provide this information.

The state has included the following narrative and charts in Section 1 of the Transition Plan to illustrate all waiver services, corresponding applicable HCBS setting qualities and the service settings that exist in Idaho's HCBS system.

Below is an exhaustive list of all HCBS administered by Idaho Medicaid, including the corresponding category for each service and the settings in which the service can occur. Settings that are listed as "in-home" are presumed to meet HCBS compliance, as these are furnished in a participant's private residence. Settings indicated as "community" are also presumed to meet the HCBS qualities, as they are furnished in the community in which the participant resides. Quality Reviews of services and participant service outcome reviews will ensure that providers may not impose restrictions on HCBS setting qualities in a participant's own home or in the community without a supportive strategy that has been agreed to through the person-centered planning process.

Adult DD Waiver Services

Service Description	Applicable HCBS Qualities	Service Settings
Adult Day Health	Non-residential	<ul style="list-style-type: none"> • Adult Day Health Center • Community
Behavior Consultation/Crisis Management	Non-residential	<ul style="list-style-type: none"> • Home • Community • Adult Day Health Center • Developmental Disability Agency (DDA) Center • Certified Family Home
Chore Services	Non-residential	<ul style="list-style-type: none"> • Home
Environmental Accessibility Adaptations	Non-residential	<ul style="list-style-type: none"> • Home
Home Delivered Meals	Non-residential	<ul style="list-style-type: none"> • Home
Non-medical Transportation	Non-residential	<ul style="list-style-type: none"> • Community
Personal Emergency Response System	Non-residential	<ul style="list-style-type: none"> • Home
Residential Habilitation – Certified Family Home	Residential – Provider Owned	<ul style="list-style-type: none"> • Certified Family Home
Residential Habilitation – Supported Living	Non-residential	<ul style="list-style-type: none"> • Home

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

Respite	Non-residential	<ul style="list-style-type: none"> • Home • Community • Adult Day Health Center • DDA Center • Certified Family Home
Skilled Nursing	Non-residential	<ul style="list-style-type: none"> • Home • Community • Adult Day Health Center • DDA Center • Certified Family Home
Specialized Medical Equipment and Supplies	Non-residential	<ul style="list-style-type: none"> • Home
Supported Employment	Non-residential	<ul style="list-style-type: none"> • Community
Developmental Therapy	Non-residential	<ul style="list-style-type: none"> • Home • Community • DDA Center
Community Crisis Supports	Non-residential	<ul style="list-style-type: none"> • Home • Community • Certified Family Home • Hospital
Supports for Self Direction		
Community Support Services	<ul style="list-style-type: none"> • Non-residential • Residential – Provider Owned 	<ul style="list-style-type: none"> • Home • Community • Adult Day Health Center • DDA Center • Certified Family Home
Financial Management Services	Non-residential	<ul style="list-style-type: none"> • Home
Support Broker Services	Non-residential	<ul style="list-style-type: none"> • Home

A&D Waiver Services

Service Description	Applicable HCBS Qualities	Service Settings
Adult Day Health	Non-residential	<ul style="list-style-type: none"> • Adult Day Health Center • RALF • DDA Center
Day Habilitation	Non-residential	<ul style="list-style-type: none"> • DDA Center • Community
Homemaker	Non-residential	<ul style="list-style-type: none"> • Home
Residential Habilitation	Non-residential	<ul style="list-style-type: none"> • Home

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

Respite	Non-residential	<ul style="list-style-type: none"> • Home • RALF • Certified Family Home
Supported Employment	Non-residential	<ul style="list-style-type: none"> • Home
Attendant Care	Non-residential	<ul style="list-style-type: none"> • Home • Community
Adult Residential Care	Residential – Provider Owned	<ul style="list-style-type: none"> • RALF • Certified Family Home
Chore Services	Non-residential	<ul style="list-style-type: none"> • Home
Companion Services	Non-residential	<ul style="list-style-type: none"> • Home
Consultation	Non-residential	<ul style="list-style-type: none"> • Community
Environmental Accessibility Adaptations	Non-residential	<ul style="list-style-type: none"> • Home
Home Delivered Meals	Non-residential	<ul style="list-style-type: none"> • Home
Non-medical Transportation	Non-residential	<ul style="list-style-type: none"> • Community
Personal Emergency Response System	Non-residential	<ul style="list-style-type: none"> • Home
Skilled Nursing	Non-residential	<ul style="list-style-type: none"> • Home
Specialized Medical Equipment and Supplies	Non-residential	<ul style="list-style-type: none"> • Home

Children's HCBS Services

Service Description	Applicable HCBS Qualities	Service Settings
Family Education	Non-residential	<ul style="list-style-type: none"> • Home • Community • DDA Center
Habilitative Supports	Non-residential	<ul style="list-style-type: none"> • Home • Community • DDA Center
Respite	Non-residential	<ul style="list-style-type: none"> • Home • Community • DDA Center
Crisis Intervention	Non-residential	<ul style="list-style-type: none"> • Home • Community • DDA Center
Family Training	Non-residential	<ul style="list-style-type: none"> • Home • Community • DDA Center

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

Habilitative Intervention	Non-residential	<ul style="list-style-type: none"> • Home • Community • DDA Center
Interdisciplinary Training	Non-residential	<ul style="list-style-type: none"> • Home • Community • DDA Center
Therapeutic Consultation	Non-residential	<ul style="list-style-type: none"> • Home • Community • DDA Center
Supports for Self Direction		
Community Support Services	Non-residential	<ul style="list-style-type: none"> • Home • Community • DDA Center
Financial Management Services	Non-residential	<ul style="list-style-type: none"> • Home
Support Broker Services	Non-residential	<ul style="list-style-type: none"> • Home

2. Systemic Assessments:

a) The state cited a global regulation (IDAPA code 16.03.10) as evidence that the state's regulations are not in conflict with Federal requirements. Are there subsections that more specifically address each setting or federal requirement? Please identify those sections, subsections and the specific settings that are impacted.

b) It is unclear whether the state code meets federal settings requirements, is silent on those issues or conflicts with the requirements. Please clarify.

The state has revised Transition Plan V3 and has added the full IDAPA rule citation(s) to identify where IDAPA supports the HCBS requirement, in addition to indicating if IDAPA is silent. The state did not identify any IDAPA rule that conflicts with the HCBS requirements. This additional information can be found in Sections 1a and 1c of the Transition Plan.

The state did not include this new information within this document. The reader can find those updates in the Transition Plan V3 available on line beginning September 11, 2015 at www.HCBS.dhw.idaho.gov. However, examples of the updates made to the Transition Plan are provided below. All new information is found in red.

Example: Provider Owned or Controlled Residential Settings Gap Analysis

Federal Requirement: <i>Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</i>	Analysis of Idaho's Residential Settings		
		Certified Family Homes (CFH)	Residential Assisted Living Facilities (RALF)
1. The setting is integrated in, and facilitates the individual's full access to	Support	Idaho licensing and certification rule (IDAPA 16.03.19.170.02,	Community integration and access are supported

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

Federal Requirement:		Analysis of Idaho's Residential Settings	
the greater community to the same degree of access as individuals not receiving Medicaid HCBS.		16.03.19.170.07, 16.03.19.200.11) and provider materials support residents' participation in community activities and access to community services.	in licensing and certification rule (IDAPA 16.03.22.001.02 16.03.22.250.01, 16.03.10.22.151.03).
	Gap	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS".	
	Remediation	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.	
2. The setting includes opportunities to seek employment and work in competitive, integrated settings to the same degree of access as individuals not receiving Medicaid HCBS.	Support	Supported employment is a service available on both the A&D and DD waivers. There are no limitations to supported employment based on a participants' residential setting.	
	Gap	The state lacks standards for "the same degree of access as individuals not receiving Medicaid HCBS". IDAPA is silent.	
	Remediation	Develop standards around "to the same degree of access as individuals not receiving Medicaid HCBS." Incorporate HCBS requirement into IDAPA 16.03.10. Enhance existing monitoring and quality assurance activities to ensure ongoing compliance.	

- 3. Assessment Process:** The state provided a narrative for its residential setting assessments and intends to complete these assessments by December 2017. The state did not provide a narrative for the non-residential settings assessments. Within the timeline, there is an action item "Assessment of Compliance" which will take place in 2017. It is unclear if this includes both residential and non-residential settings. Please clarify what assessment activities will be conducted with non-residential settings.

The state has included the following narrative in Section 2b of the Transition Plan to illustrate its plan for completing the non-residential settings assessment. Idaho will assess all settings, both residential and non-residential, at the same time. That work will be completed by December, 2017.

Idaho Medicaid has developed a plan for assessment and ongoing monitoring of non-residential providers that have the capacity to influence setting qualities. These provider types include:

- *Adult Day Health Centers – 53 service sites*
- *Developmental Disability Agencies – 75 service sites*
- *Residential Habilitation Agencies – 82 service sites*
- *Supported Employment Providers – 33 service sites*

The plan is divided into two stages, 1) an initial one-time assessment of non-residential settings to determine their current level of compliance and 2) an ongoing system of monitoring all settings to ensure continuous compliance. During the development of the initial assessment plan and plan for on-going monitoring, it was determined that additional resources were needed to effectively manage the proposed operational changes. A full-time position has been used to hire an HCBS coordinator to

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

oversee all HCBS assessment and monitoring activities. After policies, protocols, and procedures are in place and indicators demonstrate success, coordination of ongoing HCBS monitoring may be assumed by permanent staff within the bureaus and divisions.

One-Time Assessment

Idaho will implement a one-time assessment process to determine the initial level of compliance with the setting requirements by non-residential service providers. That process will begin with the passage of state rule changes to support the HCBS regulations during the 2016 legislative session. Those rules are scheduled to be effective July 1, 2016 and providers will then be permitted six months to come into full compliance. The one-time assessment will begin in January 2017. The assessment activities will include the following:

- **Provider Self-Assessment**

- *A Provider Self-Assessment will be sent electronically to all HCBS providers in July 2016. It will identify the HCBS requirements and request providers to identify if they are or are not currently complying with the requirements. If they are not currently compliant they will be asked to provide their plan for coming into full compliance, along with their timeline for doing so. Submission of a completed Provider Self-Assessment will be mandatory. Providers will be given until August 31, 2016 to submit the completed document.*

Full compliance is required by January 1, 2017. Training will be offered to providers prior to the Self-Assessment being sent out to address any questions providers may have. The training will also address how to develop an acceptable transition plan should their setting not yet be in compliance with the new setting requirements. The state will assess all submitted transition plans. The plan will either be approved or the state will work with the provider to revise it until it is deemed an acceptable plan. If the provider is unable or unwilling to create an acceptable plan to transition to full compliance that provider will be moved into the remediation process.

- **Validation of Provider Self-Assessment**

- *Under the oversight of the HCBS Coordinator, quality assurance staff from the Bureau of Developmental Disability Services (BDDS), Family and Children's Services (FACS), and the Bureau of Long Term Care (BLTC) will review Provider Self Assessments that indicate the provider will need a transition plan to come into compliance. Staff will approve provider transition plans based on agreed upon criteria and follow up with the provider to ensure activities identified in the plan are completed on time.*
- *Rule violations related to HCBS will be identified during existing quality assurance (QA) activity or through participant or Licensing and Certification complaints.*
- *On-site HCBS-specific compliance reviews will be completed the first year of rule implementation on a representative sample of all HCBS providers. This will be a one-time activity to assist with transitioning existing providers to compliance.*
- *New providers would be expected to comply at the time of Medicaid enrollment and HCBS requirements would be assessed at their six-month review.*

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

- **Acknowledgement of Understanding**

- Every service plan development process following rule promulgation in 2016 will include a discussion related to the setting requirements. The participant will be supplied with supporting information about the requirements, including a “These are Your Rights” document. As part of this process participants will also be informed that they can file a complaint if any of the requirements are not met and educated on how to do so. Both the participant and the provider(s) responsible for implementing the service plan will then be asked to sign an acknowledgement that they have been informed of the new setting requirements and the participant’s rights under these regulations. QA staff will ensure signed documents are retained in the appropriate file using existing QA case file audit processes when applicable.

- **Participant Feedback**

- Medicaid will modify existing participant experience measures in the Nurse Reviewer Home Visit (NRHV) Form, Participant Experience Survey (PES), Adult’s Service Outcome Review (ASOR), and Children’s Service Outcome Review (CSOR) to include questions that assess qualities of the participant’s non-residential settings. Reported violations of HCBS setting requirements will be identified and investigated using the existing quality assurance protocols.
- Feedback from participants will be reviewed as it becomes available from advocate groups and university research entities. Idaho Medicaid will support these external efforts by reviewing and providing feedback on questions to be used to ensure content aligns with HCBS requirements. Any participant feedback collected in this manner will be provided to Medicaid in an electronic format that allows for data compilation and analysis.
- Medicaid will develop an HCBS Specific Participant Survey that will be sent to a random sample of participants in January of 2017 asking them to assess the setting in which they are living and/or receiving HCB services against the HCBS requirements. All setting types will be included in the sample. This survey will allow Medicaid to receive feedback from participants regarding setting compliance with the non-residential setting requirements prior to the provider’s routinely scheduled quality assurance or licensing review.

Ongoing Monitoring

The ongoing monitoring of non-residential settings for continuous compliance with the HCBS setting requirements will begin after the initial year of assessment, approximately January 1, 2018. It will continue indefinitely and will be modified as needed. Ongoing monitoring will include the following activities:

- **Acknowledgement of Understanding**

- Each year during the person-centered planning process, the participant and provider(s) responsible for implementing the service plan will be asked to acknowledge their understanding of HCBS requirements. This will be monitored by QA staff using existing QA case file audit processes when applicable.

- **Compliance Surveys and Quality Reviews**

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

- *The L&C staff members will be oriented to the HCBS setting qualities. For those providers who require a certification (Developmental Disabilities Agencies (DDAs) and Residential Habilitation (ResHab) Agencies), L&C surveyors will continue to cite providers using existing processes for violations of requirements that already exist under their rule authority. If L&C observes violations of other HCBS requirements during routine L&C surveys, the violation will be reported to Medicaid or FACS QA staff to be investigated in the same fashion that other complaints are processed.*
- *The BLTC and BDDS QA staff will be oriented to the HCBS setting qualities. For those providers who receive regular provider quality reviews, QA staff will continue to cite providers using existing processes for violations.*
- *The FACS QA staff will be educated on the HCBS setting qualities to ensure they can identify and report potential violations of setting requirements that they observe during participant outcome reviews or provider surveys. Educational materials will be developed and made available to support training of new staff.*
- *The QA managers from BDDS, FACS, and BLTC will assume responsibility for ongoing monitoring of non-residential setting qualities. They will ensure the following as part of the routine QA activities:*
 - *Complaints are addressed from participants, guardians or advocates, service coordinators, care managers, informal observations from bureau staff, or L&C staff regarding potential setting requirement violations using the existing complaints and critical incidents protocols.*
 - *Participant experience measures are reviewed to identify and investigate potential setting requirement violations via the same protocols as for other program requirement violations.*
 - *The QA staff from the alternate bureaus will communicate with each other on assessment and monitoring of HCBS setting qualities to ensure consistency and facilitate data collection.*
- **Participant Feedback**
 - *Medicaid will continue to use modified participant experience measures that include questions addressing setting qualities. As part of ongoing monitoring, Medicaid may choose to further modify these measures as needed in order to target any identified statewide compliance concerns. This method will reach 100% of A&D Waiver and State Plan PCS participants and a representative sample of DD program participants each year.*
 - *Feedback from participants gathered by advocacy groups and university research entities will continue to be used, as it is available. Idaho Medicaid will continue to support these external efforts as much as possible. Any participant feedback collected in this manner will be provided to Medicaid in an electronic format that allows for data compilation and analysis.*
 - *Expanded HCBS-Specific Participant Survey: Each year Medicaid will identify potential areas of statewide compliance concerns and develop targeted questions to gather direct feedback from participants in those areas. Medicaid will send the Expanded HCBS-Specific Participant Survey to a random sample of participants as part of its monitoring*

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

activities for the first three years of implementation and then as needed based on information received through existing QA activities.

Non-residential providers found to be out of compliance with the setting requirements during the initial assessment or the ongoing monitoring phase will go through the established provider remediation process. If a rule violation is identified, action will depend on the severity. Action could range from technical assistance, a corrective action plan, or termination of a provider agreement. If it is determined that a setting does not meet HCBS requirements and remediation efforts have been ineffective, participants receiving services in those settings and their person centered planning team will be notified and afforded the opportunity and assistance to make an informed choice of an alternative HCBS-compliant setting. The state will ensure that critical services and supports are in place in advance of and during the transition.

- 4. Assessment Process:** The state has indicated that it will validate the provider reviews through its standard licensing and certification process. CMS has concerns with this process for validating survey results for RALFs, as these facilities are assessed every five years and it does not appear that the state will be able to complete assessments of all RALFs before March 2019. The state must explain how all RALFs will be assessed before 2019 and how it intends to verify initial and ongoing compliance for all settings.

The state will not rely solely on Licensing and Certification reviews to validate RALF survey results and compliance with HCBS requirements. Rather, this is intended as one way to incorporate monitoring of HCBS initial and ongoing compliance across a multitude of Department activities. The language below has been added to Section 2a of the State Transition Plan to clarify.

All RALFs and CFHs serving Medicaid HCBS participants are visited annually by department staff. The state plans to incorporate assessment of HCBS compliance into the data that is collected during these visits as another mechanism of incorporating initial and ongoing assessment into our existing processes. In addition the state will visit a random sampling of RALFs to complete an HCBS-specific compliance assessment during 2017 as part of the overall assessment process.

This data, in conjunction with additional assessment information as described in the Transition Plan, will be centrally warehoused to permit the Department to identify and cross-reference any trends or problems and will assist Idaho Medicaid in assessing initial and ongoing compliance of all RALFs and CFHs. This multifaceted approach allows for a more robust mechanism of assessment than relying solely on one assessment avenue alone.

- 5. Assessment Process: Assessment Timeline:** The state notes that "Medicaid must first enact regulatory changes to allow enforcement before the assessment of individual settings can be completed" (p. 6). CMS is concerned that the state will experience unnecessary delays by waiting to change Idaho administrative code before initiating the site-specific assessment. We recommend initiating the site specific assessments earlier to provide more time for remediation.

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

Thank you for your recommendation. The state is currently moving forward with regulatory changes in IDAPA to support the HCBS setting requirements. Rule changes are expected to become effective July 1, 2016 and providers will be given six months to become fully compliant. Idaho will begin its formal assessment of settings in January 2017. It is expected to take one year. The state is not waiting until regulatory changes are enacted to prepare staff, participants and providers for the coming changes or for the assessment activities. There have been numerous training opportunities for providers to date and the HCBS regulations have been shared. Providers have the information they need to begin to make any needed changes to be compliant.

Below is a summary of the tasks and planned activities that will allow Idaho to complete the assessment process in a timely manner.

Task	Completion Date
Operations	
1. Hire an HCBS Coordinator to lead assessment and on-going monitoring activities	August 2015
2. Define the completion, reporting and tracking processes for all aspects of the assessment	December 2015
3. Develop a risk stratification tool/process for use in part in determining which providers receive priority for an HCBS-specific on-site visit	March 2016
4. Develop an HCBS-specific process with guidelines for responding to provider non-compliance	March 2016
Materials Development	
1. Participant experience measures to modify or add to existing participant experience measures	January 2016
2. Provider Self-Assessment	March 2016
3. Participant Survey	March 2016
4. Participant Rights document	March 2016
5. Acknowledgement of understanding language to be used during person centered planning process	March 2016
6. Provider Toolkit, to include: <ul style="list-style-type: none"> • HCBS requirements • Guidance for determining compliance • Best practices • Self-Assessment checklist • How to write an acceptable plan to transition to full compliance • External sources for additional information • Process descriptions for assessment • How to request support coming into compliance • Remediation Plan details 	May 2016

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

7. HCBS-specific on-site assessment tool for DHW staff utilization	May 2016
8. Job Aides for DHW staff	June 2016
9. Communication deliverables for external stakeholders: <ul style="list-style-type: none"> • Updates to the HCBS webpage • FAQs based on public comments • Monthly email updates to stakeholders • Presentations as requested to various impacted organizations and groups • Letters and/or emails to providers at time of rule implementation 	Ongoing
Training and Support	
1. Participant training – advocates conducting face to face interviews with 240 Adult DD Waiver participants to determine their understanding of the new regulations and to provide information. A follow up is planned using the same format for 2019.	September 2015 through September 2016
2. Public Hearing and public comment opportunity	October 2015
3. Plan developers training – including how to use new HCBS-related materials with providers and participants during the person centered planning process	September 2016
4. WebEx and/or an on-line training for all stakeholders on HCBS implementation status with a focus on rules and upcoming assessment activities.	April 2016
5. Provider training - Toolkit training, how to use it, what the content is, etc.	July and August 2016
6. Provider training - Completing the Provider Self-Assessment and how to write a transition plan	July and August 2016
7. Staff training - completing the one-time assessment: refresher on what the process will look like, tracking and reporting protocols, etc.	November 2016
8. Participant training – what are your rights, via WebEx and/or an on-line training	January 2017
Planned One-Time Assessment Activities	
1. Acknowledgement of Understanding signed by providers and participants during all person centered planning meetings	Beginning July 2016
2. These are Your Rights document reviewed with participants during the plan development process every time a person centered service plan is developed or updated	Beginning July 2016
3. Provider Self-Assessment	July – August 2016
4. Participant Feedback : <ul style="list-style-type: none"> a. Feedback from participants gathered by advocates (information gathered 9/15 thru 9/16) b. HCBS Specific Participant Survey from Medicaid 	December 2016 January 2017

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

c. Participant experience measures data gathered and analyzed	Beginning May 2017
5. Site visits: corrective action plans issued as appropriate	January through December 2017
6. Validation and compliance determination	January 2017 through February 2018

The goal is for the assessment activities to be thorough, accurate and completed on time. The state has developed a timeline that ensures all participants impacted by a non-compliant provider have a minimum of six months to meet with their person centered planning team and transition to a fully compliant HCBS provider if they wish.

The above information has been added to Section 2 of the Transition Plan v3.

- 6. Remediation:** The current remediation information in the STP lacks detail and the state will need to submit an amendment which delineates milestones and timelines that will ensure the state is able to track progress toward full compliance by March of 2019. Please identify a date when you intend to provide an amended STP with the outcomes of your assessments and more specific remediation plans.

Idaho intends to complete a detailed remediation plan by March 2016. Idaho will publish the final remediation plan for public comment prior to the initiation of the assessment in 2017. However, below is a description of what the state currently plans to do in order to track and report on progress towards full compliance.

Any provider, residential or non-residential, found to be out of compliance with the setting requirements during the initial assessment or the ongoing monitoring phase will go through an established provider remediation process. This process is to be defined as part of the detailed remediation plan which will be developed in 2016. If a rule violation is identified, action will depend on the severity. Action could range from technical assistance, a corrective action plan, suspending payment of claims, or termination of a provider agreement. Setting assessments will begin in January 2017. All initial setting assessments will be complete by December 2017 and the state will move into ongoing monitoring in 2018.

The state is currently developing an HCBS specific process with guidelines for removing a provider agreement. IDAPA 16.03.09 205.03 regulates agreements with providers and will be followed. The state anticipates establishing a tiered remediation process to allow providers ample opportunity for compliance and to allow the state time to support participants who choose to consider alternative, compliant providers.

The HCBS Program Coordinator will be responsible for overseeing setting compliance and remediation activities. To do that, the Coordinator will combine information from all assessment and monitoring activities which include:

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

- *Results of HCBS-specific on-site assessments*
- *Provider Self-Assessment and transition plans*
- *Participant feedback received via the Participant Survey and feedback gathered by advocates*
- *Acknowledgement of Understanding documents to be signed by providers and participants*
- *Compliance surveys and reviews to be conducted by quality assurance staffs*
- *Corrective Action Plans*
- *Complaints received related to HCBS setting requirements*

The state will establish an assessment and monitoring oversight committee. Membership on this committee is not yet finalized. This entity will meet with the HCBS Coordinator once a month beginning in August 2016. Responsibilities of the oversight committee will include problem solving for issues related to determination of non-compliance and/or termination of a provider agreement. This group will also be responsible to ensure participants wanting to transition to a new service provider are given the support they need to do so successfully. The committee will address any challenges to the proposed processes for assessment, monitoring, remediation and/or needed process or program changes.

Below are the known milestones and timelines for activities to specifically address remediation:

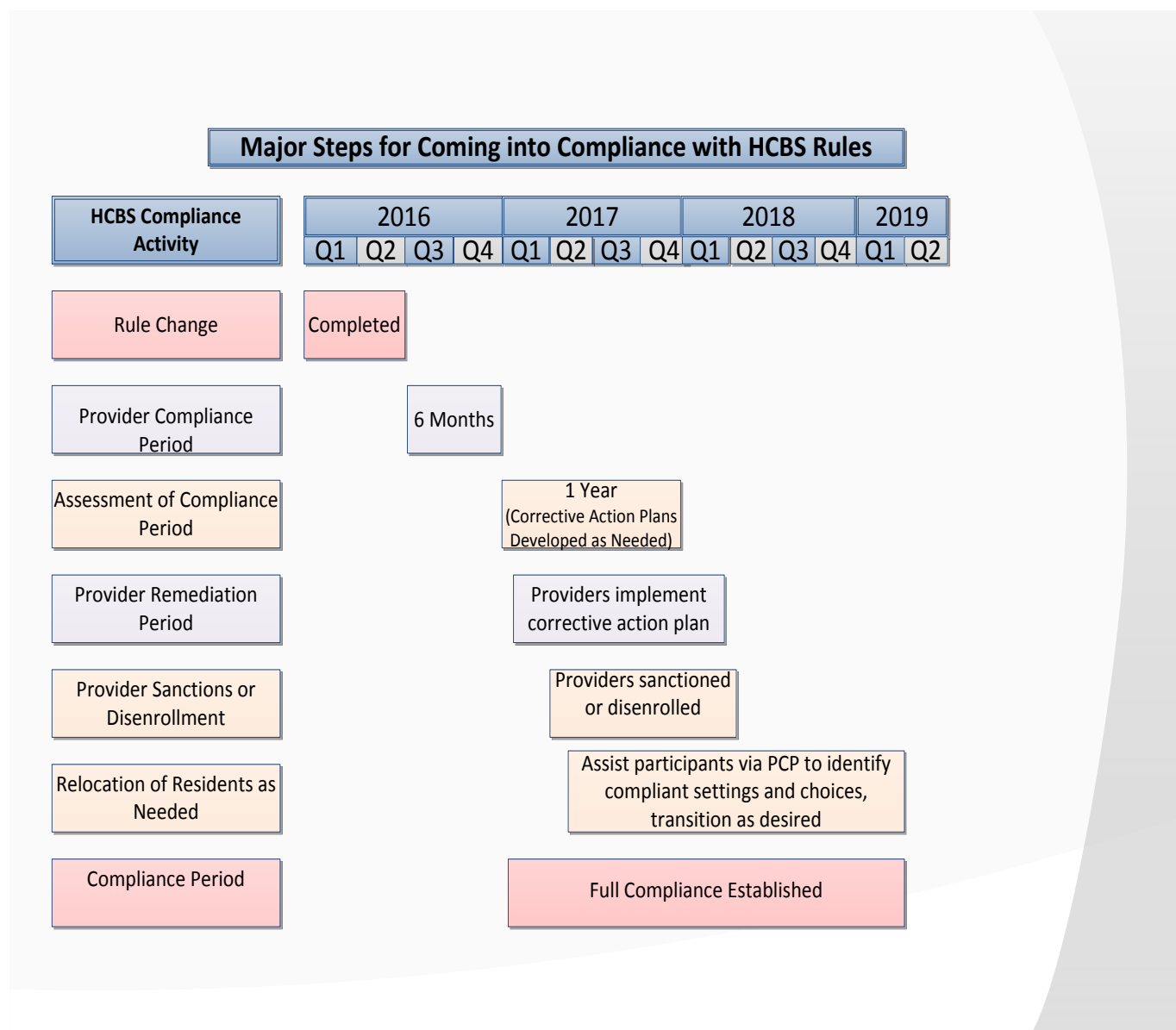
Action Item	Description	Proposed Start Date	Proposed End Date	Deliverables	Key Stakeholders	Status
Process for terminating a Provider Agreement	A written HCBS-specific process and guidelines for removing a provider agreement	September 2015	March 2016	<ul style="list-style-type: none"> • Process description with guidelines 	<ul style="list-style-type: none"> • Providers • Department staff • Participants 	Started
Finalize a detailed remediation plan	Determine details of all planned steps for remediation to ensure the state is able to track progress toward full compliance	January 2016	March 2016	<ul style="list-style-type: none"> • Remediation Plan • Business process details, diagrams and descriptions 	<ul style="list-style-type: none"> • Department staff 	Not started
Publish the Remediation Plan for public comment	Utilizing the CMS public noticing requirements, publish the Remediation Plan for comment for 30 days and track and respond to all comments as required	June 2016	July 2016	<ul style="list-style-type: none"> • Proof of public noticing • Summary of comments and changes made as a result • Reasons the state disagreed with a comment if applicable 	<ul style="list-style-type: none"> • All stakeholders 	Not started
Detailed remediation plan incorporated into the Provider Toolkit	Include all details concerning remediation in the provider toolkit	April 2016	May 2016	<ul style="list-style-type: none"> • Providers • Department staff 	<ul style="list-style-type: none"> • Toolkit 	Not started

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

Assessment and Monitoring Oversight Committee	Establish membership, write charter and initiate monthly meetings	July 2016	Ongoing	<ul style="list-style-type: none"> • Charter • Meeting documentation 	<ul style="list-style-type: none"> • Department staff • Participants • Advocates 	Not started
Provider sanctions and disenrollment	Sanction and/or disenroll providers that have failed to meet remediation standards or have failed to cooperate with the HCBS transition	April 2017	April 2018	<ul style="list-style-type: none"> • Provider letters • Disenrollment documentation 	<ul style="list-style-type: none"> • Providers • Department staff 	Not started
Update the State Transition Plan (STP)	Add the results of the assessment activities into the STP and publish it for 30 days for public comment	April 2018	May 2018	<ul style="list-style-type: none"> • STP 	<ul style="list-style-type: none"> • All stakeholders 	Not started
Participant transitions to HCBS compliant settings	Where applicable contact participants and work with case managers and person-centered planning teams to ensure that participants who want to transition to settings that meet the HCBS setting requirements are supported. Participants will be given timely notice and will be provided with a choice of alternative settings through a person-centered planning process.	May 2017	March 2019	<ul style="list-style-type: none"> • Provider letter • Participant letter • Updated person centered plan 	<ul style="list-style-type: none"> • Participants • Providers • Department staff 	Not started

Below is a chart which illustrates the major steps and timeline for moving to full compliance.

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**



The above information has been added to Section 2 of the Statewide Transition Plan v3.

- 7. Heightened Scrutiny:** The state must clearly lay out its process for identifying settings that are presumed to have the characteristics of an institution. These are settings for which the state must submit information for the heightened scrutiny process if the state determines, through its assessments, that these settings do have qualities that are home and community-based in nature and do not have the qualities of an institution. If the state determines it will not submit information on settings meeting the scenarios described in the regulation, the presumption will stand and the state must describe the process for informing and transitioning the individuals involved either to compliant home and community-based settings or to non-Medicaid funding streams.

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

These settings include the following:

- Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
- Settings in a building on the grounds of, or immediately adjacent to, a public institution.
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

If the state wishes to submit such information, it will need to do so in an amended STP that has completed the public input process. If the state determines the setting is institutional in nature, the STP should specifically address how the impacted individuals will be informed and transitioned.

The state has added to following information to Section 1 of the State Transition Plan:

Idaho has completed its assessment of all settings against the first two characteristics of an institution. There are no settings where an HCBS participant lives or receives services that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment. Further there are no settings on the grounds of or immediately adjacent to a public institution. Idaho will assess all settings against the third characteristic of an institution as part of its larger assessment effort in 2017. At this point in time Idaho has no plans to request the heightened scrutiny process for any HCBS setting.

During Idaho's analysis of non-residential service settings the state did identify that a very small number of children receiving developmental disability (DD) waiver services are living in residential environments that are considered by Idaho rule to be institutions. These settings are referred to in Idaho as Children's Residential Care Facilities (Children's RCFs). The state is currently exploring options on a case by case basis for continuing to meet the needs of these children and to prevent HCBS funding from being utilized in the future for children residing in an RCF. The state intends for all children receiving developmental disability (DD) waiver services to be living in compliant settings by the compliance deadline of March 2019.

- 8. Relocation Plan:** While the state mentioned the relocation of beneficiaries, the STP does not include any details identifying specific action steps and corresponding timelines. It is unclear how the state will give notice to participants or how they plan to transition the individuals. Additionally, the state should refer to the participant who will be impacted first rather than the team working with him/her. For instance, "If a setting cannot or will not meet the requirements, the state will work with the participant to assemble the appropriate person-centered planning team to assist in the identification of appropriate settings and choices for relocation." The plan should include details describing how it will deliver adequate advance notice, which entities will be involved, how beneficiaries will be given information and supports to make an informed decision, and how it will ensure that critical services are in place in advance of the transition.

The state has added the following information to Section 2 of the Transition Plan v3:

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

Idaho Medicaid has a high level plan on how the state will assist participants with the transition to compliant settings. The state will develop a more detailed relocation plan by March 2016. That plan will describe how the state will deliver adequate advance notice, which entities will be involved, how beneficiaries will be given information and supports to make an informed decision, and how it will ensure that critical services are in place in advance of the transition. Idaho will publish the final Relocation Plan along with the provider Remediation Plan for public comment prior to the initiation of the assessment in 2017.

Any provider who is unable or unwilling to comply with the new rules cannot be reimbursed by Medicaid to provide care and assistance to HCBS participants. If it is determined a setting does not meet HCBS setting requirements, participants and their person-centered planning teams will be notified in writing that they have a minimum of six months to find alternative care or housing if desired.

By the end of December 2017, all providers will have been assessed for compliance on the HCBS rules. All providers will be given the opportunity to remediate any HCBS concerns. If a provider fails to remediate or does not cooperate with the HCBS transition, provider sanction and disenrollment activities will occur.

Other Concerns

- 9. On p. 2 of Attachments 1 and 2,** the state defines age appropriate as "the same as for peers not currently receiving home and community-based services who are the same chronological age." We note that the definition of "peers" is unclear here. If "peers" is a defining quality that only includes individuals with similar disabilities, then it does not meet the intent of the rule. Please clarify that peers includes individuals with and without disabilities.

On p. 3 of Attachment 1, the state requires providers to respond with a "yes" to two out of three questions to verify that residents have access to activities. The questionnaire asks, "is the community brought into the home at least monthly (e.g., for age appropriate entertainment, etc.)?" Another question asks, "Does the home have an activity coordinator?" These two items alone do not verify residents' access to the community. As the questionnaire is currently designed, a provider may respond yes to both items, which merely specify that the community has access to the residents, but not that residents have access to the community. The state should ensure that the questionnaire accurately reflects the opportunity for community participation for residents.

Since the January 2015 publication of the transition plan, the state has modified its approach to assessment of the Provider Owned or Controlled Residential Settings. Instead of having fixed standards for integration, a toolkit will be developed for providers that includes guidelines, instructions for completing a self-assessment, review criteria and best practices for integration. Attachments 1 and 2 have thus been removed from the Transition Plan v3.

It is the state's intention to ensure that any self-assessment tool or documents developed as part of the toolkit appropriately assess if participants are or are not given the opportunity for community participation to the extent that they desire and in manner that they desire in that setting.

It is the state's intention to define "peers" as including individuals with and without disabilities. The state will make this clear in administrative rules and in any guidance materials it provides.

**Idaho HCBS Services
CMS Feedback on Transition Plan
Response to Questions - Sept. 2015**

10. Within the systemic review, the state notes that it requires only 15 day notice for eviction from CFHs. This does not comport with state tenancy laws. Please advise CMS on how the state will resolve this regulation so it complies with the federal settings criteria requiring parity with other state tenant laws.

The state has reviewed all comments submitted to the state on the HCBS Statewide Transition Plan related to tenancy laws. The state has also re-examined Idaho statute as it related to this issue. As a result the following language has been added to the Gap Analysis in Section 1a of the Transition Plan v3:

Idaho tenancy laws require a 3-day eviction notice by the landlord, as described in Title 6, Chapter 3 of Idaho Statute. Administrative rules governing Certified Family Homes require that there be a 15-day minimum notice of transfer or discharge and that the timeframes and criteria for transfer be described in the Admission Agreement. By employing a minimum 15-day notice of transfer, CFH guidelines are more lenient than Idaho tenancy laws.